

1 HOUSE BILL 200

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Candy Spence Ezzell

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10 AN ACT

11 RELATING TO TAXATION; CREATING THE LIVE HORSE RACE GAMING TAX  
12 CREDIT.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. A new section of the Gaming Control Act is  
16 enacted to read:

17 "[NEW MATERIAL] LIVE HORSE RACE GAMING TAX CREDIT.--

18 A. Beginning on January 1, 2016, a taxpayer that is  
19 a gaming operator licensee that is a racetrack may claim, and  
20 the taxation and revenue department may allow, a tax credit  
21 against the taxpayer's gaming tax liability pursuant to Section  
22 60-2E-47 NMSA 1978, subject to the limitations of this section.  
23 The tax credit provided by this section may be referred to as  
24 the "live horse race gaming tax credit".

25 B. The purpose of the live horse race gaming tax

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1 credit is to help offset the expense of live horse racing in  
2 New Mexico.

3 C. The live horse race gaming tax credit shall not  
4 exceed:

5 (1) twelve thousand five hundred dollars  
6 (\$12,500) for each day that a live horse race is conducted at  
7 the licensee's premises during a fiscal year; provided that the  
8 gaming operator licensee paid gaming tax in an amount equal to  
9 ten million dollars (\$10,000,000) or less in the fiscal year  
10 immediately prior to the fiscal year in which the taxpayer  
11 claims the tax credit; or

12 (2) seven thousand five hundred dollars  
13 (\$7,500) for each day that a live horse race is conducted at  
14 the licensee's premises during a fiscal year; provided that the  
15 gaming operator licensee paid gaming tax in an amount equal to  
16 more than ten million dollars (\$10,000,000) in the fiscal year  
17 immediately prior to the fiscal year in which the taxpayer  
18 claims the tax credit.

19 D. The aggregate amount of live horse race gaming  
20 tax credits provided pursuant to this section that the taxation  
21 and revenue department may allow in a fiscal year shall not  
22 exceed three million dollars (\$3,000,000). If the aggregate  
23 amount of live horse race gaming tax credits claimed exceeds  
24 the limitation in this subsection, the available amount of tax  
25 credits shall be prorated among the taxpayers eligible for the

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1 live horse race gaming tax credit in that fiscal year. The  
2 maximum tax credit amount an individual taxpayer may claim  
3 shall not exceed seventy-five percent of the gaming tax  
4 liability due from that taxpayer in that fiscal year.

5 E. The live horse race gaming tax credit may be  
6 claimed on a monthly basis against the gaming tax remitted to  
7 the state on a form provided by the taxation and revenue  
8 department. The tax credit claimed each month shall not exceed  
9 seventy-five percent of the taxpayer's monthly gaming tax  
10 liability. Any additional tax credit that may be allowed may  
11 be carried forward to any month of the fiscal year in which the  
12 taxpayer claims the tax credit; provided that the maximum tax  
13 credit amount an individual taxpayer may claim shall not exceed  
14 seventy-five percent of the gaming tax liability due from that  
15 taxpayer in the fiscal year.

16 F. To be eligible for the live horse race gaming  
17 tax credit, the taxpayer shall, in the fiscal year prior to the  
18 fiscal year for which the tax credit is claimed, conduct no  
19 fewer days of live horse racing than were conducted in fiscal  
20 year 2014, as determined by the state racing commission, unless  
21 the taxpayer receives approval from the state racing commission  
22 for the taxpayer to vary the minimum number of live horse  
23 racing days.

24 G. The state racing commission shall certify the  
25 eligibility of a taxpayer for purposes of obtaining a live

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1 horse race gaming tax credit and shall promulgate rules  
2 establishing procedures for certification. The rules shall  
3 ensure compliance with the provisions of this section. The  
4 state racing commission shall issue a dated certificate of  
5 eligibility containing the identifying information of the  
6 taxpayer that qualifies for the live horse race gaming tax  
7 credit. All certificates of eligibility issued pursuant to  
8 this subsection shall be sequentially numbered, and an account  
9 of all certificates issued or destroyed shall be maintained by  
10 the state racing commission. The taxation and revenue  
11 department shall audit the records of the live horse race  
12 gaming tax credit maintained by the state racing commission on  
13 a periodic basis to ensure effective administration of the tax  
14 credit and compliance with the Tax Administration Act and the  
15 provisions of this section.

16 H. The taxpayer shall report to the state racing  
17 commission the number of live horse racing days conducted in a  
18 fiscal year and the increase from a prior fiscal year, the  
19 number of New Mexico breed races held and the number of New  
20 Mexico-bred horses that raced at the licensee's premises and  
21 any other information that the state racing commission requires  
22 to determine the eligibility of the taxpayer and the  
23 effectiveness of the live horse race gaming tax credit.

24 I. To claim a live horse race gaming tax credit,  
25 the taxpayer shall provide to the taxation and revenue

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1 department the certificate of eligibility issued by the state  
2 racing commission to the taxpayer pursuant to Subsection G of  
3 this section.

4 J. A taxpayer allowed a tax credit pursuant to this  
5 section shall report the amount of the tax credit to the  
6 taxation and revenue department in a manner required by the  
7 department.

8 K. The taxation and revenue department, with the  
9 cooperation of the state racing commission, shall compile an  
10 annual report on the live horse race gaming tax credit that  
11 shall include the number of taxpayers approved by the  
12 department to receive the tax credit, the aggregate amount of  
13 tax credits approved and any other information necessary to  
14 evaluate the effectiveness of the tax credit. Beginning in  
15 2017, the taxation and revenue department shall compile and  
16 present the annual reports to the revenue stabilization and tax  
17 policy committee and the legislative finance committee with an  
18 analysis of the effectiveness and cost of the tax credit and  
19 whether the tax credit is performing the purposes for which it  
20 was created.

21 L. The live horse race gaming tax credit shall be  
22 administered by the taxation and revenue department pursuant to  
23 the Tax Administration Act."

24 **SECTION 2. EFFECTIVE DATE.**--The effective date of the  
25 provisions of this act is January 1, 2016.

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